

3-402 A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 272/040  
First Named Inventor: Johnny Goldberg  
Prior Application Information:  
Serial No. 09/672,197  
Examiner: S. Crow  
Art Unit: 3764

jc687 U.S. PRO  
02/28/02

Commissioner for Patents  
Box Patent Application  
Washington, D. C. 20231

FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☒ continuation ☐ divisional ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/672,197 filed on September 28, 2000, by

**Johnny Goldberg**, entitled:

**STATIONARY EXERCISE BICYCLE**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**I. APPLICATION ELEMENTS ENCLOSED**

10 Page(s) of Written Description  
3 Page(s) of Claims  
1 Page(s) of Abstract  
5 Sheet(s) of Drawings ☒ formal ☐ informal  
Page(s) of ☐ Declaration or ☒ Declaration and Power of Attorney  
☒ Copy from prior application [37 CFR §1.63(d)]  
☐ Newly executed  
Other:

- ☒ Assignment papers (cover sheet and documents(s) from parent application)  
☒ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.  
☒ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

**II. FEE CALCULATION**

- ☒ Applicant claims small entity status under 37 CFR 1.27.

<b>BASIC FILING FEE:</b>						<b>\$740.00</b>
Total Claims	14	-	20	=	0 x \$18.00	\$0.00
Independent Claims	2	-	3	=	0 x \$84.00	\$0.00
Multiple Dependent Claims	\$280	(if applicable)			<input type="checkbox"/>	\$0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>						<b>\$740.00</b>
Reduction by ½ for Filing by Small Entity.					<input checked="" type="checkbox"/>	\$370.00
Misc. Filing Fees (Recordation of Assignment)						\$40.00
<b>TOTAL FEES DUE HERewith</b>						<b>\$410.00</b>

### III. PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- ☐ The certified copy will follow.

### IV. AMENDMENTS

- ☐ Cancel in this application original Claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

### V. RELATE BACK - 35 USC § 120

- ☒ Relate back information included in preliminary amendment or specification.
- ☐ Please amend the specification as follows:  
[Enter continuing data here]
- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:
- ☒ the same.
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:  
[Name(s) of inventor(s) to be deleted]

### VI. METHOD OF PAYMENT OF FEES

- ☐ Attached is a check in the amount of \_\_\_\_\_.
- ☒ Charge Lyon & Lyon's Deposit Account No. **12-2475** in the amount of \$410.00.

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

## VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to credit Lyon & Lyon's Deposit Account No. **12-2475** for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- ☒ 37 CFR § 1.16 (Filing fees and excess claims fees)  
☒ 37 CFR § 1.17 (Application processing fees)  
☐ 37 CFR § 1.21 (Assignment recordation fees)

## VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS

- ☒ The power appears in the original papers in the prior application.  
☐ The power does not appear in the original papers, but was filed on \_\_\_\_\_ in prior application Serial No. \_\_\_\_\_.  
☐ A new power has been executed and is attached.

Please send all correspondence to Customer Number 22249:



**22249**

PATENT TRADEMARK OFFICE

LYON & LYON LLP  
Suite 4700  
633 W. Fifth Street  
Los Angeles, CA 90071  
(213) 489-1600

Please direct all inquiries to Laura M. Burson, at the above Customer Number.

## IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

- ☒ A petition, fee and response has been filed to extend the term in the pending **prior** application until February 28, 2002. A copy of the petition for extension of time in the **prior** application is attached.  
☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

**X. ABANDONMENT OF PRIOR APPLICATION**

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

LYON & LYON LLP

Dated:

February 28, 2002

By:

Laura M. Burson

Laura M. Burson  
Reg. No. 40,929

Enclosures

Mad Dogg Athletics, Inc.  
Name of Assignee

2111 Narcisus Court, Venice, CA 90291  
Address of Assignee

President/CEO  
Title of person authorized to sign on behalf of assignee

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**REQUEST AND CERTIFICATION  
UNDER  
35 U.S.C. 122(b)(2)(B)(i)**

First Named Inventor	Johnny Goldberg
Title	METHOD OF EXERCISING ON A STATIONARY BICYCLE
Atty Docket Number	272/040

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

02/28/2002

Date



Signature

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 Laura M. Burson

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231

EM# EL130428878US

Patent  
272/040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

JOHNNY GOLDBERG

Serial No.:

Filed: February 28, 2002

For: METHOD OF EXERCISING ON A  
STATIONARY BICYCLE

Examiner:

Group Art Unit:



TRANSMITTAL LETTER

BOX PATENT APPLICATION

Commissioner for Patents

Washington, D.C. 20231

Sir:

Transmitted herewith via Express Mail No. EL130428878US is a CONTINUATION APPLICATION pursuant to 37 C.F.R. § 1.53(b) and corresponding transmittal sheets; RECORDATION FORM COVER SHEET and supporting documents submitted for the recordation of the assignment in the parent application Serial No. 09/672,197; STATEMENT UNDER 37 C.F.R. 3.73(b) and supporting documents as submitted in the parent application Serial No. 09/672,197; a copy of the change in the POWER OF ATTORNEY submitted in parent application Serial No.

LA-228633.1

CERTIFICATE OF MAILING  
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to BOX PATENT APPLICATION, Commissioner for Patents, Washington, DC 20231.

EL130428878US

Express Mail Label No.

February 28, 2002

Date of Deposit

Debbie Gilbert

Name of Person Mailing Paper

Signature of Person Mailing Paper

Serial No. 09/672,197; and a copy of the OATH of the Inventor submitted in the patent application Serial No. 09/672,197.

Also attached is PTO Form 1449 submitted in accordance with the Applicant's duty of disclosure under 37 C.F.R. 1.56 and 1.97-1.98. This Form is filed in accordance with 37 C.F.R. 1.97(b)(1), (3), within three months of the filing of the application and prior to issuance of the First Office Action on the merits. Thus, no petition or fee is required. The patents, publication and other information disclosed in the attached PTO Form 1449 were previously submitted to the Office in the parent applications Serial Nos. 09/672,197; 09/019,352; 08/736,976; 08/391,438; 07/969,765, on which this application relies for an earlier filing date under 35 U.S.C. § 120. Accordingly, pursuant to 37 C.F.R. 1.98(d), copies of the previously cited or submitted patents, publications, and other information listed in the attached PTO Form 1449 are not attached.

The items identified in the PTO Form 1449 may or may not be "material" pursuant to 37 C.F.R. § 1.56 and the submission thereof by Applicant shall not be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such. The filing of this PTO Form 1449 shall not be construed to mean that a search has been made.

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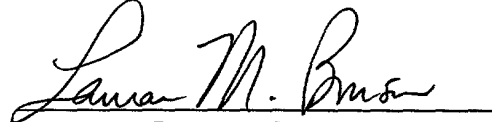
The Commissioner is hereby authorized to charge Lyon & Lyon's Deposit Account  
No. **12-2475** in the amount of \$410.00 and for any additional fees which may be required, or credit  
any payment of any fees associated with this communication.

Respectfully submitted,

LYON & LYON LLP

Dated: February 28, 2002

By:



Laura M. Burson  
Reg. No. 40,929

633 West Fifth Street, Suite 4700  
Los Angeles, California 90071-2066  
(213) 489-1600